

## § 109.100

including demographic information, use of proceeds, payment terms, and jobs created and retained.

*Portfolio Status Report* means the quarterly electronic report that summarizes the payment status and outstanding principal balances of an ILP Intermediary's loans to Eligible Small Business Concerns.

### **Subpart B—ILP Intermediary Application and Selection Process**

#### **§ 109.100 ILP Intermediary eligibility and continuing participation requirements.**

(a) *Organization type*: An ILP Intermediary must be a private, nonprofit entity other than an intermediary participating in the SBA Microloan program as described in subpart G of Part 120. Eligible entities include:

(1) Private, nonprofit community development corporations;

(2) Consortia of private, nonprofit organizations or nonprofit community development corporations; and

(3) Agencies of or nonprofit entities established by Native American tribal governments.

(b) *Prior experience*: An ILP Intermediary must have at least one year of successful experience making and servicing loans to startup, newly established, or growing small businesses.

(c) *Management and operations*. (1) An ILP Intermediary must have paid staff with loan making and servicing experience acceptable to SBA.

(2) An ILP Intermediary must have a continuing ability to evaluate, process, close, disburse, service and liquidate small business loans including, but not limited to:

(i) Holding sufficient permanent capital (as determined by SBA) to support lending activities under this program; and

(ii) Maintaining satisfactory SBA performance, as determined by SBA in its discretion.

(3) An ILP Intermediary must meet and maintain the ethical requirements of 13 CFR 120.140.

(4) An ILP Intermediary (and any Affiliates) that participates in other SBA programs must be in compliance with those program requirements.

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(5) An ILP Intermediary must be in good standing with its Federal and/or State regulator, as applicable.

(6) An ILP Intermediary must have the ability to comply with the ILP Program Requirements, including reporting requirements, as such requirements are revised from time to time, and maintain compliance with ILP Program Requirements for as long as the ILP Intermediary participates in the ILP program.

#### **§ 109.200 Application to become an ILP Intermediary.**

(a) *Notice of Funds Availability (NOFA)*. SBA will periodically publish a NOFA in the FEDERAL REGISTER, advising potential applicants of the availability of funds for the ILP program. Any eligible entity may then submit an application to become an ILP Intermediary. When submitting its application, an applicant must comply with both these regulations and any requirements specified in the NOFA, including submission deadlines. The NOFA may specify limitations, special rules, procedures, and restrictions for a particular funding round.

(b) *Contents of application*. The application to become an ILP Intermediary must include:

(1) Documentation that the applicant meets the eligibility and continuing participation requirements for the ILP program set forth in § 109.100;

(2) A completed ILP Intermediary application form provided by SBA;

(3) A description of:

(i) The type of small businesses to be assisted;

(ii) The size and range of loans to be made;

(iii) The interest rate and terms of the loans to be made;

(iv) The geographic area to be served and the economic, poverty, and unemployment characteristics of the area;

(v) The status of small businesses in the area to be served and an analysis of the availability of credit; and

(4) Any additional forms and documentation required by SBA.

#### **§ 109.210 Evaluation and selection of ILP Intermediaries.**

(a) *General*. SBA will evaluate and select applicants to participate in the

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ILP program in accordance with this section and the NOFA. SBA reserves the right, in its discretion, to loan less than all available funds.

(b) *Number of ILP Intermediaries.* SBA will make loans to not more than 20 of the selected ILP Intermediaries in each of the fiscal years for which funding is available.

(c) *Eligibility and completeness.* SBA will not consider any application that is not complete or that is submitted by an applicant that does not meet the eligibility and participation criteria established by SBA. SBA, at its sole discretion, may request from an applicant additional information, including information concerning participation criteria or the application, in order to allow SBA to consider that applicant's application. Failure to provide such additional information may be considered grounds to reject the application.

(d) *Evaluation criteria.* Eligible and complete applications will be evaluated and scored based on the criteria established by SBA, as set forth in the NOFA. In general, eligible applications with the highest scores will be granted ILP Intermediary status, up to the maximum number allowed by statute. SBA reserves the right to select ILP Intermediaries in such a way as to ensure geographic diversity of areas served by ILP Intermediaries.

### § 109.220 Loan limits—loans to ILP Intermediaries.

No ILP Intermediary (including Affiliates) may receive more than \$1,000,000 in ILP Loans.

## Subpart C—ILP Program Requirements

### § 109.300 General.

An ILP Intermediary must maintain compliance with all ILP Program Requirements until the ILP Intermediary has repaid its ILP Loan to SBA. With respect to its activities in the ILP program, the ILP Intermediary is subject to the requirements of §§120.140 (What ethical requirements apply to participants?), 120.197 (Notifying SBA's Office of Inspector General of suspected fraud), 120.412 (Other services Lenders may provide Borrowers), and 120.413 (Advertisement of relationship with

SBA) of this chapter, in addition to the regulations specifically set forth in this Part. The ILP Intermediary and any contractor(s) it may have are independent contractors that are responsible for their own actions with respect to small business loans made under this program. SBA has no responsibility or liability for any claim by an Eligible Small Business Concern or other party for any injury as a result of any wrongful action taken by the ILP Intermediary or an employee, agent or contractor of an ILP Intermediary.

### § 109.310 Terms of loans to ILP Intermediaries.

(a) *Disbursement.* An ILP Intermediary must be in compliance with ILP Program Requirements in order to draw down its ILP Loan funds. SBA may place restrictions on disbursement, including the amount disbursed to an ILP Intermediary at one time or conditions on subsequent disbursements.

(b) *Term.* An ILP Loan must be repaid within 20 years from the date of the ILP Note.

(c) *Interest rate.* The interest rate for an ILP Loan to an ILP Intermediary is fixed at one percent per annum.

(d) *Repayment.* Payments of principal and interest must be made on a quarterly basis, except SBA will defer the first payment on an ILP Loan for two years from the date of the first disbursement. Interest will accrue on all disbursed funds during the deferment period. Accrued interest will be added to the outstanding principal balance at the end of the deferment period and amortized over the remaining life of the loan. An ILP Intermediary may prepay an ILP Loan at any time without penalty.

(e) *Collateral.* SBA does not require the ILP Intermediary to provide any collateral for an ILP Loan.

(f) *Fees.* SBA does not charge an ILP Intermediary any fees for an ILP Loan.

### § 109.320 ILP Loan purposes.

(a) ILP Loan funds must only be used to provide direct loans to Eligible Small Business Concerns for working capital, real estate, or the acquisition of materials, supplies, furniture, fixtures, or equipment.